

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

TIMOTHY HOTCHKISS,

Defendant.

ORDER

05-cr-107-jcs-01

In an order issued on May 8, 2008, I denied defendant Timothy Hotchkiss's motion for a reduction in his sentence under 18 U.S.C. § 3582 and the amendments to the crack cocaine sentencing guidelines, after finding that defendant's sentence was not based on consideration of any cocaine base (crack cocaine). Defendant has asked for reconsideration of this order and has attached two chemical analysis reports and a sheet of notes provided to him and his counsel during discovery in his criminal case.

The lab reports submitted by defendant refer to cocaine base as well as cocaine hydrochloride but, as I told defendant in the May 8 order, his sentence was not based on his possession or distribution of any crack cocaine. Defendant was charged with possessing and distributing cocaine, not cocaine base; he pleaded guilty to possession of cocaine, not cocaine

base; and the presentence report discussed only cocaine. Therefore, he is not eligible for a two-level adjustment under the new crack cocaine amendments.

ORDER

IT IS ORDERED that defendant Timothy Hotchkiss's motion for reconsideration of the May 8, 2008 order denying his motion for relief under 18 U.S.C. § 3582 is DENIED.

Entered this 28th day of May, 2008.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge